



Virginia
Regulatory
Town Hall

Notice of Intended Regulatory Action
Agency Background Document

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| Agency Name: | Dept. of Medical Assistance Services 12 VAC 30 |
| VAC Chapter Number: | Chapter 90 |
| Regulation Title: | Methods and Standards for Establishing Payment Rates-Long Term Care Services |
| Action Title: | Resource Utilization Groups (RUGs) Patient Intensity Methodology |
| Date: | 3/5/2001; forwarded to DPB 3/6/2001 |

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

The purpose of this requested action is to secure approval of the agency's initiation of the Article 2 process for the promulgation of the RUGs methodology for the Nursing Home Payment System. The 2000 Appropriations Act directed the Department to "...adopt regulations providing for the implementation of a new reimbursement system based in a Resource Utilization Groups (RUGs) methodology to reflect resident intensity." The current Nursing Home Payment System (NHPS) has relied on the same methodology (the Patient Intensity Rating System (PIRS)) to adjust payment for service intensity since 1991. Both the Department and the regulated industry are in agreement that the system needs to be converted to a more sophisticated methodology similar to that which has recently been developed and implemented by Medicare, Resource Utilization Groups (RUGs)).

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

Federal (42 CFR Part 447) and state law (Code sec. 32.1-325) require that the methodology used by the Medicaid agency to set nursing facility rates be specified in regulations. Therefore, if the Department wishes to change the existing methodology, it must amend existing regulations. However, there is no federal or state mandate explicitly requiring that this particular new methodology be adopted at this time.

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

This proposed regulatory action will substitute language describing a RUGS methodology for existing language that describes the PIRS methodology. These methodologies represent two different ways of adjusting nursing facility rates to recognize that residents with higher service intensity require more expensive care than those with lower service intensity. The existing PIRS methodology has been used for ten years. The RUGS methodology will more accurately reflect resident service intensity and, therefore, will be more appropriate and equitable. The Department and the affected industry have met together over a period of many months to review the RUGS methodology and are in agreement concerning the appropriateness of this change. As this regulation is developed the Department and industry will continue to analyze any potential fiscal impact of the change on specific providers.

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

The regulation is intended to authorize a change to the payment system that will pay providers more appropriately for services. It has been developed in consultation with provider representatives and takes their views into account. In addition, the Agency will consider any alternatives identified through the public comment process.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

This regulation has no impact on families. The methodological details of Medicaid reimbursement to nursing facilities has no discernable impact on families.